

REMARKS

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims is less than originally filed.

Request for Telephone Interview

The undersigned attempted to schedule a telephone interview prior to filing this Amendment, however the Examiner was away from the office at the time. Applicant kindly requests the Examiner to contact the undersigned at (847) 490-1400 to schedule a telephone interview, to discuss the merits of this Patent Application.

Amendment to the Claims

Claim 1 has been canceled and replaced with new Claim 38. Dependent claims have been amended to depend from Claim 38 instead of canceled Claim 1. Claims 6, 17-20, and 26 have been canceled. Claims 4, 24, and 35 have been amended in response to the Office Action's comments. No new matter has been added to the claims by this Amendment.

Drawings

As requested, Applicant has enclosed a copy of the drawings submitted with the National Phase Patent Application. These drawings have been amended to substitute English for the Russian language in the figures. No new matter has been added as the drawings were part of the filed Patent Application.

Claim Rejections - 35 U.S.C. §112

The Office Action states that the claims do not comply with U.S. practice, as being generally narrative. Applicant has replaced Claim 1 with new Claim 38. New Claim 38 is believed to overcome this rejection of the claims.

Claims 18, 19, and 35 have been rejected under 35 U.S.C. §112, for lacking antecedent basis. Claims 18 and 19 have been canceled and Claim 35 has been amended to provide antecedent basis for all claim limitations.

Claims 4 and 24 have been amended as noted in the Office Action.

Claims 6 and 26 have been canceled.

Applicant believes that the above Amendment and comments overcome the rejection under 35 U.S.C. §112.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-16 and 24-37 under 35 U.S.C. §103 as being unpatentable over Kutushov, U.S. Patent 5,980,479, in view of Marka et al., U.S. Patent 5,934,888, is respectfully traversed.

The Kutushov Patent discloses a system for correcting a biological fluid. The system includes a vessel 48 containing a suspension of a magnetoconductive material 50 coupled to a tube 42 for transporting blood (FIG. 2; Col. 6, lines 41-49). The mixing of the material 50 and the blood occurs in mixing assembly 66. The mixing assembly 66 does not include Applicant's recited side walls with corrugations forming corresponding silphons. For this limitation, the Office Action notes that multi-chambered bellows-style pumps are well known, as evidenced by the multi-chambered bellows pump of the Marka et al. Patent.

The Office Action alleges it would have been obvious to incorporate the biological fluid correction system of the Kutushov Patent into the single-housing pumping apparatus of the Marka et al. Patent. The Office Action further asserts that "the only difference between the instant invention and the cited prior art is that the elements disclosed by the Kutushov Patent are assembled in a single bellows pump assembly as disclosed by the Marka et al. Patent" and that because "[t]he operation of the correction system is not dependent on the structure of the pumping apparatus . . . [as Applicant's claimed invention] does not provide a patentably distinct function from the prior art."

Applicant respectfully disagrees with the “functionality” standard being applied to reject the claims. Applicant’s claimed system is structurally different from the alleged combined prior art, but because the end function of the Kutushov Patent’s system and Applicant’s system are ultimately the same, the Office Action doesn’t consider the structural differences patentable. Applicant is not claiming the function, but the structure of the improved system. Therefore the structural differences are relevant and cannot be ignored just because the ultimate purpose is similar.

Claim 38 recites that the vessel for the ferreed sorbent is installed inside the mixing chamber and an inner cavity of the vessel is connected with an inner chamber of the mixing chamber. Further, the system inlet socket is simultaneously connected to the inner cavity of each of the mixing chamber and the vessel.

The combined prior art references do not provide all limitations of Applicant’s claimed invention. Applicant’s recited vessel/mixing chamber structure is not provided or rendered obvious by the simple two side-by-side chamber design of the Marka et al. Patent. The Office Action appears to understand that not all limitations are provided by the combination, but alleges the claimed invention is obvious because the function is not dependent on the structure. Applicant respectfully asserts that this is not the proper standard for rejecting Applicant’s claimed invention. Applicant asserts that the combined prior

art references provide no suggestion or motivation for Applicant's recited vessel/mixing chamber structure.

Favorable reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of Claims 17-21 under 35 U.S.C. §103 as being unpatentable over Kutushov, U.S. Patent 5,980,479, in view of Marka et al., U.S. Patent 5,934,888, and further in view of Dorman et al., U.S. Patent 5,073,094, is respectfully traversed.

Claims 17-20 have been canceled, and Claim 21 depends from Claim 38 and is thus patentable for at least the same reasons discussed above for Claim 38.

The rejection of Claims 22 and 23 under 35 U.S.C. §103 as being unpatentable over Kutushov, U.S. Patent 5,980,479, in view of Marka et al., U.S. Patent 5,934,888, and further in view of Lundback, U.S. Patent 4,750,868, is respectfully traversed.

Claims 22 and 23 depend from Claim 38 and are thus patentable for at least the same reasons discussed above for Claim 38.

Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed or resolved in this response, Applicant's undersigned attorney again requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MDS', with a horizontal line extending from the end of the signature.

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